

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MALIBU MEDIA LLC,

Plaintiff,

Case No. 13-13932

Honorable Thomas L. Ludington

v.

JOHN DOE subscriber
assigned IP address 66.188.46.228,

Defendant,

_____ /

ORDER GRANTING MOTION FOR LEAVE TO SERVE THIRD-PARTY SUBPOENA

This copyright infringement case commenced on September 9, 2013, when Plaintiff Malibu Media filed suit against a single Defendant John Doe, the internet subscriber assigned IP address 66.188.46.228. ECF No. 1. The complaint alleges that “Defendant is a persistent online infringer of Plaintiff’s copyrights.” Specifically, Defendant has used BitTorrent to distribute eleven of Plaintiff’s copyrighted works.

The same day that Plaintiff filed the complaint, Plaintiff also filed a motion for leave to serve third-party subpoenas prior to a Rule 26(f) conference. ECF No. 3. Plaintiff explains that because “Defendant used the Internet to commit their infringement, Plaintiff only knows Defendant by his Internet Protocol (“IP”) address.” Accordingly, to discover Defendant’s identity, “Plaintiff seeks leave of Court to serve a Rule 45 subpoena on the Defendant’s ISP.”

Federal Rule of Civil Procedure provides that parties may generally serve discovery only after a Rule 26(f) conference, “except. . . when authorized by . . . court order.” Fed. R. Civ. P. 26(d)(1). To determine whether to authorize expedited discovery in a particular case, the Court applied a “good cause” standard.

Based on the allegations in the complaint and the representations in Plaintiff's motion, good cause for expedited discovery is appropriate — Defendant must be identified before this suit can progress further. *See, e.g., Arista Records LLC v. Does 1-19*, 551 F. Supp. 2d 1, 6 (D.D.C. 2008) (noting “the overwhelming number of cases where courts have . . . permitted expedited discovery in circumstances similar to the present.”); *Interscope Records v. Does 1-14*, Civ. A. No. 07-4107, 2007 WL 2900210, *1 (D. Kan. Oct. 1, 2007) (finding “good cause” for expedited discovery); *Warner Bros. Records, Inc. v. Does 1-14*, Civ. A. No. 07-424, 2007 WL 1960602, *1 (D. Utah July 5, 2007) (same); *see generally* Robert G. Larson & Paul A. Godfread, *Bringing John Doe to Court: Procedural Issues in Unmasking Anonymous Internet Defendants*, 38 Wm. Mitchell L. Rev. 328, 336-51 (2011).

Accordingly, it is **ORDERED** that Plaintiff's motion for leave to serve third-party subpoena prior to a Rule 26(f) conference (ECF No. 3) is **GRANTED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: September 17, 2013

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 17, 2013.

s/Tracy A. Jacobs
TRACY A. JACOBS